REMARKS

The Examiner is thanked for the performance of a thorough search. Claims 1-24 are now pending in this application. Applicant respectfully requests reconsideration in view of the amendments made above and the remarks set forth below.

SUMMARY OF THE REJECTIONS AND OBJECTIONS

Claims 1-3, 5, 6 and 8-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Yun* (U.S. Patent No. 6,842,836 to Yun et al.) in view of *Ketcham* (U.S. Patent No. 6,363,429 to Ketcham). Claims 4 and 7 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

REJECTIONS BASED ON 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejections. Aspects of the claims differ from the cited references in notable ways. To distinguish Claim 1 from the cited references, consider differences between *Yun* and the present invention.

Yun is generally directed toward a method of caching streaming media. The method involves filing a cache with incoming data to a first level (Abstract). The cache filing is set at a rate relative to the incoming data (Summary). The method also involves increasing the cache level from the first level to an optimum level and adjusting the cache concurrently with incoming data and data outputting (Summary). The purpose of the *Yun* method is to prevent the cache level from exceeding a maximum cache level and prevent the cache level from decreasing below the first, such that smooth and continuously-streaming outputting of the data is provided (Summary).

Ketcham is generally directed toward a method for automatically determining priority data streams on a computer network (Abstract). A data traffic signature is calculated for a data stream using one or more of an average packet spacing, average packet size, average packet jitter or variation in packet size parameters calculated for data packets in a data stream (Abstract).

Claim 1 of the present invention relates to a technology that is fundamentally different from the cited references. Claim 1 is directed toward wireless technology. Limitations of Claim 1 include, among other things, the workings of a "network appliance" (e.g., a switch) and an "access point", which is a wireless device that includes a wireless transmitter. See Figure 4. Claim 1 involves a method to optimize data transferred from the access point when the access

point has a slower packet transfer rate than the network appliance.

Yun, on the other hand, is directed toward a method of filling a cache with incoming media data to a certain level at a rate that is relative to the incoming media data (*Yun* at column 8, lines 7-10). There is no optimization of an access point in *Yun*. In the field of wireless technology, the device known as an "access point" is well-known and has a specific meaning and a specific purpose. An access point is a hardware device or a computer's software that acts as a communication hub for users of a wireless device to connect to a wired network. *Yun* is simply not directed toward wireless technology involving an access point. Accordingly, *Yun* does not involve technology of a network appliance in relation to an access point.

Further, Claim 1 is directed toward optimizing the output of data from an access point. Specifically, Claim 1 includes steps of:

> "controlling a rate of transfer of packets ***from*** the network appliance to accommodate the access point;
> determining an average size of packets received by the network appliance for ***transfer to*** the access point, and
> ***adjusting the rate*** of transfer of packets from the network appliance ***in response*** to the average size of packets". (emphasis added)

It is important to note that Claim 1 is directed toward the optimization of outputting data from the network device and from the access device. There is no optimized cache fill technique involved with Claim 1.

Yun, on the other hand, is directed toward optimizing the caching of data as the data comes into the cache. *Yun* is directed toward a cache fill technique. *Yun* discusses such things as a cache fill rate and how the cache fill rate is faster at the bottom and slower at the top (*Yun* at column 7, lines 1-10). The cache is disposed within a volatile memory unit, such as RAM of Figure 1 of *Yun* (*Yun* at column 6, lines 65-67). As the data arrives from a video server, it is placed into cache, which is a memory space allocated in RAM of an electronic device (*Yun* at column 7, lines 21-24). This discussion of cache filling may be useful for technology related to *Yun*. However, this discussion is not useful to the analysis of Claim 1 of the present invention because Claim 1 does not involve the optimization of cache.

It is respectfully submitted that no combination of the cited references teaches, hints or suggests the limitations of Claim 1 for reasons stated above. There is no motivation to combine *Yun* and *Ketcham* to read upon Claim 1 because neither reference teaches, hints or suggests the

limitations of Claim 1. Accordingly, even if *Yun* and *Ketcham* were combined, the combination would not teach, hint or suggest Claim 1. Thus, it is respectfully requested that the Section 103(a) rejection to Claim 1 be removed.

Independent Claims 5, 9, 13, 16 and 21 are directed toward methods or systems that include limitations similar to those of Claim 1. Accordingly, these Claims are allowable for similar reasons Claim 1 is allowable. Thus, it is respectfully requested that the Section 103(a) rejection to these independent Claims be removed.

Dependent Claims 2-4, 6-8, 10-12, 14, 15, 17-20 and 22-24, are dependent upon base claims that are not taught, hinted or suggested by any combination of the cited references. Accordingly, these Claims are allowable for similar reasons independent Claims 1, 5, 9, 13, 16 and 21 are allowable. Thus, it is respectfully requested that the Section 103(a) rejection to these dependent Claims be removed.

CONCLUSION

For the reasons set forth above, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Respectfully submitted,
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CERTIFICATE OF MAILING (37 CFR§ 1.8(a))
I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.

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